not violated by occupancy of residence property by twelve or fifteen members of a Catholic Sisterhood who held religious services daily with the assistance of a priest in a small private chapel fitted with an altar. *Hunter Tract Improvement Co. et al.* v. *Corporation of Catholic Bishop of Nisqually, et al.*, (Wash., 1917), 167 Pac. 100.

The court said that the name given to the house itself was immaterial as the restriction is not against names but purposes. *Smith* v. *Water Works Co.*, 104 Ala. 315. *Scott Co. et al.* v. *Roman Catholic Archbishop for Diocese of Oregon*, 83 Oregon 97, 163 Pac. 88, held in accord with the principal case that a building occupied by nuns might be fairly termed a residence or dwelling, and if the other conditions are complied with, it makes no difference how large the dwelling is or how many people occupy it. The word *residence* is equivalent to residential and is used in contradistinction to business. *Hunt* v. *Held*, 90 Ohio St. 280, Am. Ann. Cas. 1916 C, 1051. Generally a covenant that property shall be used "for residence purposes only" is held not to prohibit its use as an apartment house or flat. *McMurtry* v. *Phillips Investment Co.*, 103 Ky. 308, 40 L. R. A. 489; *Tillotson* v. *Gregory*, 151 Mich., 128, 114 N. W. 1025; *Re Robertson & Defoe*, 25 Ont. L. Rep. 286, 30 Ont. W. N. 31. In *McMurtry* v. *Phillips, supra*, a covenant to use property for residence purposes only was not violated by erection of an apartment house for several families separate from each other in a general way but with a large dining room in the basement to be used in common by all tenants when they so desired, a common laundry room, and a common store room. But in *Burton* v. *Stapeley*, 4 Ohio N. P. N. S. 65, the court interpreted *residence* to mean *private dwelling*. The judgment of the court was affirmed in 74 Oh. St. 461, 78 N. E. 1120. This however is contrary to the generally accepted view and was disapproved by the Ohio Supreme Court later in *Hunt* v. *Held*, 90 Ohio St. 280, Am. Ann. Cas. 1916 C, 1051.

DEATH—ACTION UNDER SURVIVAL ACT—NEGLIGENCE OF BENEFICIARY AS A DEFENSE—NEGLIGENCE OF BENEFICIARY'S HUSBAND AS A DEFENSE.—Deceased's father obtained employment for him with defendant by fraudulently misrepresenting his age as seventeen instead of sixteen. The father, as personal representative, seeks to recover for himself and wife under the federal RAILROAD EMPLOYERS' LIABILITY ACT of April 22, 1908 and its amendment of April 5, 1910 on the death of his son caused by injuries sustained while in defendant's employ. *Held*, that the negligence of the father prevented recovery for either parent. *Crevelli* v. *Chicago, M. & St. P. Ry. Co.*, (Wash. 1917), 167 Pac. 66.

The negligent beneficiary is easily seen beneath the thin disguise of the personal representative required by the statute to sue, *Penny* v. *New Orleans, etc., R. Co.* (1914), 135 La. 962, 66 So. 313; and the rule in regard to contributory negligence gives the result reached without more reasoning. TIFFANY, DEATH BY WRONGFUL ACT, 2d Ed., Sec. 71; J. H. WIGMORE, 2 Ill. L. Rev. 487. A distinction, however, was made between the statutes giving the benefit of the recovery to the deceased's estate, *Love* v. *Detroit, etc. Ry. Co.*, 170 Mich. 1, 135 N. W. 963, and those naming beneficiaries. This distinction

leads to the same result, inasmuch as the act has been uniformly construed as creating a new right of action for the beneficiaries. *American R. R.* v. *Didricksen*, 227 U. S. 145, 149; *Wellman* v. *Bethea* (1917), 243 Fed. 222, 225. Even defeating the wife's recovery has some justification on account of Washington statutes which would make it impossible for the court to keep the husband from sharing it. This fact answers the strongest arguments against *Darbrinsky* v. *Pennsylvania Co.* (1915), 248 Pa. St. 503, 94 Atl. 269, L. R. A. 1915 E. 781. But there is an admitted conflict. 29 HARV. L. REV. 99; 25 YALE L. J. 244; 15 COL. L. REV. 629.

EVIDENCE—VIEW IN A FOREIGN STATE.—Libel for divorce on the ground of adultery. A general statute authorized the court, in its discretion, to order a view. The judge, without exception of either party, ordered a view in Massachusetts of premises where the acts of adultery were alleged to have been committed. The judge took the view in the presence of both parties. *Held,* that it was not error to order a view in a foreign state. *Carpenter* v. *Carpenter* (N. H. 1917), 101 Atl. 628.

Only one other case has been found in which the question of the propriety of a view outside of the state was raised. In this case, *State* v. *Hawthorn*, 134 La. 979, 64 So. 873, the court held that it was not error to refuse a view in a foreign state, on the ground that such a view would be beyond the jurisdiction of the court. The instant case held that no question of jurisdiction was involved but only one of procedure. A resort to analogy seems to sustain the court. Statutes in many states provide personal service of process may be made on a person in a foreign state, in some cases through the sheriff of the court issuing the writ; in others, through the sheriff of the county where the service is made. NEBR. CODE, Section 81; KANS. CODE, Section 76. This service is effective only when the proceeding is *in rem*. It is not employed to give the court jurisdiction. That the court has because the *res* is before it. The service is nothing but a procedural step to apprise the defendant of the proceedings in the other state as a suitable foundation for a judgment against property already within the jurisdiction of the court. *Pennoyer* v. *Neff*, 95 U. S. 714. Similarly, the view is solely a procedural act to facilitate proceedings over which the court has already obtained jurisdiction. Another analogy is found in the case of statutes which provide for the appointment of commissioners in foreign states who are authorized to take depositions. These are given the same effect as though taken within the state. This again is an act of procedure without the state which is an aid to the legal proceedings within the state.

GIFTS—CAUSA MORTIS—CONSTRUCTIVE DELIVERY OF AUTOMOBILE.—Deceased, on his deathbed, made the following statement to his fiancee who had ministered to his wants during his illness, "I give you my automobile, May." The lady took charge and had possession of the machine for several days thereafter until it was seized by the administrator of the deceased's estate. *Held,* the subsequent acceptance and taking of dominion by the donee was sufficient to satisfy the rule of law requiring delivery to sustain a gift *causa mortis*. *Mackenzie* v. *Steeves* (Wash. 1917), 167 Pac. 50.